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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Paul B. Fisher, et al.  
Serial No.: 09/515,363  
Filed : February 29, 2000  
For : MELANOMA DIFFERENTIATION ASSOCIATED GENE-5  
(mda-5), PROMOTER AND USES THEREOF

1185 Avenue of the Americas  
New York, New York 10036  
February 9, 2001

BY HAND

Assistant Commissioner for Patents  
Washington, D.C. 20231

AIF:

COMMUNICATION TO SUBMIT DOCUMENT REQUESTED BY EXAMINER

This communication is submitted in response to a request by Examiner Loebl. Examiner Loebl stated in a telephone conversation on January 4, 2001 with Ms. Linda Joseph of the undersigned attorney's office that the CDF diskette that was submitted on December 1, 2000 in response to the November 1, 2000 Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence Disclosures (**Exhibit 1**), had been misplaced at the PTO.

In response to the November 1, 2000 Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence Disclosures (**Exhibit 1**) applicants originally submitted a CDF diskette, a paper copy Sequence Listing and a Statement of Compliance in accordance with 37 C.F.R. (1.821(f)) on December 1, 2000 (**Exhibit 2**). A response to the November 1, 2000 Notice was received December 1, 2000. Accordingly, our response was filed on January 4, 2001.

In response to the information given by Examiner Loebl, the undersigned attorney's office, on January 4, 2001 with Ms. Linda Joseph

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Page 1

On the undersigned attorney's advice, that the CFF diskette submission and received at the EPO had been misplaced at the EPO we are now submitting a replacement CFF diskette, a signed Statement of Compliance in accordance with 37 C.F.R. 1.51(c)(1)

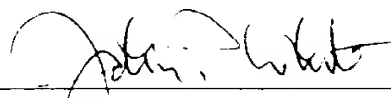
**Exhibit 3** and a paper copy of the Sequence Listing (**Exhibit 4**) relating to the above-identified application. This Sequence Listing is identical to the Sequence Listing submitted as EXHIBIT B in our December 1, 2000 response to the November 1, 1999 Notice.

Further to a February 5, 2001 telephone conversation between Examiner Loeb and Dr. Alan Miller of our office this document is being delivered to the Patent Office by hand.

In a telephone interview would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorneys invite the Examiner to telephone at the number provided below.

No fee is deemed necessary in connection with the filing of this communication.

Respectfully Submitted,



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## Notice to Comply

Application No.

09/515,363

Examiner

Bronwen M. Loeb

Applicant(s)

FISHER ET AL.

Art Unit

1636

### NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- ☒ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☒ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☐ 7. Other:

#### Applicant Must Provide:

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

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**PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR REPLY**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Paul B. Fisher et al. Examiner : Loeb  
U.S. Serial No.: 09/515,363 Group Art: 1636  
Filed : February 29, 2000  
For : MELANOMA DIFFERENTIATION ASSOCIATED GENE-5  
(mda-5), PROMOTER AND USES THEREOF

1185 Avenue of the Americas  
New York, New York 10036  
February 6, 2001

Assistant Commissioner for Patents  
Washington, D.C. 20231

STATEMENT IN ACCORDANCE WITH 37 C.F.R. §1.821(f)

In accordance with 37 C.F.R. §1.821(f), I hereby certify that the computer readable form containing the nucleic acid and/or amino acid sequences required by 37 C.F.R. §1.821(e) and submitted with the above-identified application contains the same information as the written "Sequence Listing" (15 pages) that is submitted here as **EXHIBIT 2**, and is the same as the Sequence Listing submitted as EXHIBIT B in the December 1, 2000 Communication regarding Sequence Listing in relation to the above-identified application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Brian J. Amos

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